In the Supreme Court of the United States.

OCTOBER TERM, 1903.

GEORGE C. THOMAS, PLAINTIFF IN ERROR, v. THE UNITED STATES. } No. 43.

ROBERT A. CHESEBROUGH, PLAINTIFF IN error, v. THE UNITED STATES. } No. 152.

MEMORANDUM FILED BY THE SOLICITOR-GENERAL, UPON THE SUGGESTION OF THE COURT, RESPECTING MOTION ON BEHALF OF THE PLAINTIFFS IN ERROR TO REASSIGN SAID CASES.

These cases raise certain questions as to the validity of the war-revenue act of 1898, and especially the fundamental question whether the taxes imposed are direct or indirect. The case of the *Spreckels Sugar Refining Company* v. *Penrose A. McClain, Collector, etc.*, No. 103 of the present term, involves the same fundamental question. My suggestion to the court is that these cases may be heard at the same time, not as one case necessarily, but following each other, to the convenience of the court and counsel.

It seems that counsel for all parties agree that the respective cases may be conveniently heard during December next. If, therefore, the court shall grant the motion, in which the Government acquiesces, to reassign Nos. 43 and 152 to be heard on some date in December, I respectfully suggest that No. 103 should be specially assigned to follow those two cases. If the various counsel agree hereafter that all three cases, or two of them, shall be fully consolidated for hearing as one case, that matter will be brought to the attention of the court. It may be that counsel will agree on that course, and, so far as the Government is concerned, the time of one case will suffice.

HENRY M. HOYT,
Solicitor-General.

O